IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

1) S.B. CIVIL WRIT PETITION NO.1126/1998.
Om Prakash Singh & Ors.
Versus
The Board of Revenue & Ors.
2) S.B. CIVIL WRIT PETITION NO.674/1998.
Om Prakash Singh & Ors.
Versus
The Board of Revenue & Ors.

Date of Order : 22/8/2007.

PRESENT
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri K.K. Mehrishi Sr.Advocate with
Shri Sanjay Mehrishi for the petitioners.
Shri S.C. Gupta and
Shri R.K. Mathur for the respondents.

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These two writ petitions have been filed by the defendant-petitioners. Petitioners No.1 to 5, 8 & 9 in SBCWP No.1126/1998 are legal representatives of

Makkhan Singh, the original defendant No.2, in the suit filed by Mooliya, the original plaintiff, whereas petitioners No.6 & 7 are sons of Mahetab Singh, father of original-defendant No.2 Makkhan Singh (since deceased). A writ of certiorari has been prayed to be issued setting-aside the judgments passed by the Revenue Appellate Authority dated 9/7/1996 and the Board of Revenue dated 2/1/1998 and for restoration of the judgment & decree dated 7/11/1979 passed by the Sub-Divisional Officer Kishangarhbas whereby the revenue suit filed by the plaintiffs was dismissed.

2) Plaintiff Mooliya, now represented by respondents No.3 to 5 in writ petition

No.674/98 and plaintiff Jagmal Singh and Paras Ram who are represented by respondent Nos.3 to 9 in Writ Petition No.1126/98, filed a suit for permanent injunction against the defendants (petitioners herein) inter-alia praying therein that Govind Singh was biswedar of the land bearing Khasra No.162 measuring 3 bigha 12 biswa, Khasra No.135 measuring 2 bigha 5 biswa, Khasra No.136 measuring 2 bigha 11 biswa and Khasra No.143 measuring 2 bigha 43 biswa in village Lamachpur, Tehsil Mundawar, District Alwar. He mortgaged the said land with the plaintiffs which was attested in their favour on 24/6/1945. Since then, the plaintiffs were in continuous possession of the land and have also been paying the land

revenue. With the abolition of the biswedari by the Rajasthan Biswedari and Abolition Act 1959 (for short, “Act of 1959”), the land in dispute vested in the State Government. Therefore, plaintiffs prayed in the suit that defendant Govind Singh had no right or claim over the said land. He however in collusion with the other defendants wanted to dispossess the plaintiffs from the land and was bent upon to destroy their crops so as to transfer the said land in favour of a third party and hence, plaintiffs sought permanent injunction against the defendants with a prayer to restrain the defendants from interfering with their peaceful possession of the plaintiffs (respondents herein) on the land in dispute. In the

written-statement jointly filed by the defendants, it was stated that defendant Govind Singh was biswedar of the land in dispute who mortgaged the same in favour of the plaintiffs. Rest of the averments of the plaint were however denied. It was asserted that the plaintiffs were not in possession of the land and crops presently standing on the land were sawn by defendant Govind Singh. Since the plaintiffs were presently not in possession of the land, there was no question of granting permanent injunction in their favour and the suit being not maintainable was liable to be dismissed.

3) Learned S.D.O. Kishangarhbas while dismissing the suit vide judgment & decree dated 7/11/1979 held that defendant-

petitioners were in possession of the property in question and in view of the provisions of the Act of 1959, the State Government is a necessary party since the land already stood vested in it on the date of abolition of biswedari. Neither of the parties had any title in the land. It was further held that after the Rajasthan Tenancy Act, 1955 (for short, “Act of 1955”) came into force w.e.f. 15/10/1955, the land in question in view of Section 43 of that Act stood automatically redeemed from mortgage on expiry of 20 years from the date of mortgage.

4) Aggrieved thereby, plaintiffs filed two appeals bearing Appeal No.9/1988 and 10/1988 before the Revenue Appellate

Authority Alwar. During pendency of appeals, defendants Makkhan Singh and Govind Singh and plaintiff Jagmal Singh expired. Their legal representatives were taken on record. Both the appeals were allowed by the Revenue Appellate Authority vide judgment & order dated 9/7/1996 who reversed the findings of the S.D.O. Kishangarhbas about possession of the defendant-petitioners and held that on account of abolition of biswedari, plaintiffs became the khatedar of the disputed land and that the defendant-petitioners had now no right to get the land redeemed which was mortgaged in the year 1962 as the land stood vested in the Government.

5) During the interregnum period, Jagmal Singh, one of plaintiffs initiated proceedings under Section 145 of the Cr.P.C. against Makkhan Singh and others with regard to disputed land mortgaged by defendant Govind Singh with the plaintiffs. Lands were attached under the orders of the S.D.O. Kishangarhbas who appointed Tehsildar Mundawar as receiver over the same. Proceedings of attachment were however dropped by order of the S.D.O. Kishangarhbas dated 30/12/1997. According to the defendant-petitioners however, possession of the said land continued with the Tehsildar Mundawar as a Receiver. Thereafter, an application was moved by Veer Singh, son of

defendant-petitioner No.6 Sawai Singh, on 19/5/1997 claiming possession of the land. The Tehsildar Mundawar by an order dated 21/5/1997 released the land in dispute from his possession as a receiver. This is how the defendant-petitioners claim to have regained possession of the land which according to them continued to remain with defendant Govind Singh (since deceased). Veer Singh again submitted an application to the Naib-Tehsildar on 15/11/1997 for verification of the actual physical possession in regard to the disputed land pertaining to both the suits. Naib-Tehsildar directed the concerned Patwari to inspect the site and send his report. Patwari in his report dated 18/11/1997 verified that the

actual physical possession of the lands were with the defendant-petitioners.

6) Being aggrieved of the judgment and order of the Revenue Appellate Authority dated 9/7/1996, defendant-petitioners filed two appeals bearing No.Appeal /Decree/159/96 /Alwar and Appeal /Decree/161/96 /Alwar, before the Board of Revenue, Ajmer which dismissed both the appeals vide judgment dated 2/1/1998 upholding the view taken by the Revenue Appellate Authority Alwar.

7) I have herd Shri K.K. Mehrishi, learned Senior Advocate for the petitioner and Shri S.C. Gupta and Shri R.K. Mathur, learned counsel for the respondents.

8) Shri K.K. Mehrishi, learned Sr.Advocate appearing for the petitioners

argued that the Board of Revenue erred in law in not correctly appreciating the order passed by the S.D.O. Kishangarhbas. The Board ought to have examined as to how interference made by the Revenue Appellate Authority with that judgment could be justified. Shri Mehrishi cited the provisions of Section 224 of sub-Section (2) of the Act of 1955 specially clause (iv) thereof and argued that the Board was required to interfere with the findings of the learned Revenue Appellate Authority because while reversing the judgment of the trial court, the Authority recorded findings contrary to the evidence on record. It was further argued that the S.D.O. has given categorical finding on Issue No.3 that the

suit land was in possession of the defendants and on that basis dismissed the suit of the plaintiffs. Such findings were illegally reversed by the Revenue Appellate Authority. The Board was required to judiciously analyse the evidence. It was argued that the S.D.O. had correctly held that the State Government was necessary party in the suit because the plaintiffs did not implead the State Government and Issue No.4 was rightly decided against the plaintiffs. The finding recorded by the Board that no interest of the State Government was involved in the matter, is wholly illegal. Learned Board failed to appreciate that the Revenue Appellate Authority committed error of law in holding

that on the date of abolition of biswedari, the plaintiffs had become khatedar tenant of the disputed land and the further finding that the defendants had no right to redeem the land mortgaged in the year 1962, is also illegal. The Revenue Appellate Authority further committed an error of law in holding that the defendant-petitioners had no right in the disputed land in view of redemption of land as, ownership rights of the disputed land had already been vested in the Government.

9) Shri K.K. Mehrishi further argued that the Board as well as the Revenue Appellate Authority have both mis-interpreted the provisions of Section 5(43) of the Act of 1955 as well as the provisions

of the Act of 1959. They also failed to correctly appreciate the provision of Section 43(4) of the Act of 1955 according to which upon expiry of the period mentioned in the mortgage-deed or 20 years, whichever is less, the mortgage automatically stands redeemed and the mortgagee is treated to be as trespasser. As evident from mutation No.174 of village Lamachpur that defendant-Govind Singh had effected the mortgage in favour of the plaintiffs by way of a mortgage-deed in the year 1962 and, therefore, no document of redemption was executed and it was orally redeemed. The plea of the defendant-petitioners as proved by the oral evidence was rightly accepted by the trial court. Name of defendant-Govind

Singh was shown as tenant-mortgagor in Jamabandi of Samwat 2013 to 2016 and he was recorded tenant of the disputed land. It was argued that both, the learned Revenue Appellate Authority as well as the Board of Revenue have wrongly held that after abolition of the biswedari w.e.f. 15/11/1959, the right, title and interest of defendant-Govind Singh was extinguished. Ever since the Tehsildar Mundawar, withdrew from possession of the land as receiver, the same came in the possession of the petitioners. Therefore, judgments of Revenue Appellate Authority as well as the Board of Revenue are unsustainable in law in the light of the report of the Patwari Palawa Tehsil Mundawar dated 18/11/1997 that

petitioners were at the relevant point of time in actual physical possession of the suit land. It was argued that the courts below have not appreciated the fact that what was mortgaged by Govind Singh was his tenancy right and not the biswedari rights and, therefore, the provisions of the Act of 1959 could not be affected in the instant case. It was argued that the suit for injunction as per the provisions contained in Section 188 of the Act of 1955 could be filed only by a khatedar-tenant and plaintiffs in the present case upon cessation of usufructuary mortgage in view of Section 43(4) of the Act of 1955 became liable to be ejected as trespasser under Section 43(5) of the said Act. The rights of

a mortgagee extinguished by virtue of Section 5(2)(j) of the Act of 1959. It was further argued that oral mortgage of the disputed land could be made in law and for the same reason mortgage could also be redeemed orally and, therefore, both the courts below erred in law in not considering the case of the petitioners in the light of that aspect.

10) Shri K.K. Mehrishi, learned Senior Advocate invited attention of the court towards Section 5(2)(j) of the Act of 1959 and argued that the import and effect of this provision has not at all been examined either by the Revenue Appellate Authority or the Board of Revenue. He argued that the petitioners were biswedars of the land upon

which they were in possession. In view of Section 29 of the Act of 1959, they acquired khatedari rights and hence they were not liable to be ejected from the said land being its khatedar tenant. Shri Mehrishi relied on the judgment of this Court in **Ram Chandra Vs. State of Raj. & Ors. : R.R.D. (1989) 634, Kundan Mal and others Vs. Thikana Siryari and others : AIR 1959 Raj. 146, Commissioner of Income-tax, Delhi Vs. S.Teja Singh : AIR 1959 SC 352, State of Bombay Vs. Pandurang Vinayak and others : AIR 1953 SC 244** and on their strength, argued that the writ petitions deserve to be allowed in terms of the prayers made. It was, therefore, prayed that the judgments

passed by the learned Revenue Appellate Authority and the Board of Revenue be quashed and that of the S.D.O. Kishangarhbas be restored.

11) Shri S.C. Gupta and Shri R.K. Mathur, learned counsel appearing for the respondents argued that the issue raised in these matters are mostly based on findings of fact and have been decided concurrently by the Revenue Appellate Authority and the Board of Revenue and findings of both do not suffer from any illegality or perversity. Suit was filed by the plaintiffs seeking only decree of injunction against the petitioners and therefore issues relating to title and khatedari rights were not required to be adjudicated upon in that suit. It was

argued that biswedari of the suit land was already abolished w.e.f. 15/11/1959 and rights of biswedars were forfeited from the agricultural land which vested in the State Government. The plaintiffs filed suit only against the defendant-petitioners on the ground of apprehension of interference with their possession by the defendants. Defendants had no right to interfere in the possession of the plaintiffs without due process of law even after 15/11/1959. The defendants were neither biswedars nor are they having possession of the land in question. The plaintiffs have been in continuous possession of the agricultural land since 24/6/1945 when the defendants executed the mortgage-lease in favour of the

plaintiffs and handed over its possession. It was argued that the defendants have failed to prove that they got the mortgage of the land redeemed in the year 1962. When their rights of biswedari stood forfeited in the year 1959, they did not have any further right of redeeming the suit land. The Revenue Appellate Authority as well as the Board of Revenue have correctly held that the plaintiffs were in possession of the land and not the defendants. It was submitted that neither did defendant-Govind Singh get the land redeemed nor did he have any right to redeem the same because biswedari stood abolished in the year 1959. After such abolition, the State Government became owner of the land and plaintiffs

became tenant in view of the provisions of the Act of 1955. It was argued that an erroneous finding was recorded by the Revenue Appellate Authority on Issue No.4 that the plaintiffs were in continuous cultivatory possession of the land since 1945. The judgment impugned in the writ petition passed by the Board of Revenue upholding the judgment of the Revenue Appellate Authority is perfectly legal and justified which does not call for any interference by this Court. Shri S.C. Gupta relied on the judgments of the Hon'ble Apex Court in **Budha Vs. Amilal : AIR 1991 SC 663, Bir Singh and others Vs. Pyare Singh and others : AIR 2000 SC 1216** and the

Constitution Bench of the Supreme Court in **Prabhu Vs. Ramdeo and others : AIR 1966 SC 1721** and prayed that the writ petitions be dismissed.

12) I have given my earnest consideration to the rival submissions made by the learned counsel for the parties at the bar, respectfully studied the cited case law and perused the material on record.

13) The case of the petitioners is mainly founded on the argument that upon expiry of twenty years from the date of mortgage, the land automatically stood redeemed from the mortgage by virtue of Section 43(4) of the Act of 1955 and, therefore, the petitioners were entitled to acquire its possession free from all encumbrances. With the withdrawal

of order of receiver, land can to be possessed by them and, therefore, since they were not in possession of the land in dispute, the suit for injunction filed by the respondents was not maintainable. Learned counsel in this respect also relies on Section 5(2)(j) of the Act of 1959 and argued that consequence of abolition of biswedari are enumerated in Section 5(2) and one of the consequences in clause (j) thereof is that every mortgage with possession existing on such estate or part thereof on the date immediately preceding the date of vesting of such biswedari land in the government i.e. 15/11/1959 shall be deemed to have been substituted by simple mortgage and, therefore, even if the lease

was usufuctory in nature, possession of the mortgagee became illegal and he was liable to be treated as trespassers. Shri K.K. Mehrishi, learned Senior Advocate for the petitioners on this aspect relied on the judgments of this Court in **Lal Chand Vs. State of Rajasthan : RRD 1989 635.** It was therefore argued that even if it is assumed that the respondents were in possession of the land, they do not become khatedar on redemption of mortgage by legal fiction as aforesaid in view of Section 43(4) of the Act of 1955 read with Section 5(2)(j) of the Act of 1989. This issue came up for consideration of the Hon'ble Supreme Court in **Buddha Vs. Amilal : AIR 1991 SC 663.**

In that matter, the facts were somewhat similar to the present case wherein also the nature of the mortgage of certain lands in favour of the appellant by the biswedars was usufuctory. Their Lordships on consideration of the question whether on the date of vesting of biswedari estate of the appellant in the State, the appellant can acquire the khatedari rights. Though, the land of the appellant was khudkasht land, but he was not in actual possession of this land hence not acquired khatedari rights. On consideration of the various provisions of the Act of 1955 including Section 29 thereof and that of Act of 1959, their Lordships held thus:-

“Under this provision Khatedari rights have been conferred on a Zamindar or Biswedar as from the date of the vesting of the estate in respect of Khudkasht lands in the occupation of such Zamindar or Biswedar on such date. The words “in his occupation on such date” postulates that the lands, though Khudkasht, should be in the occupation of the Zamindar or Biswedar on the date of vesting of the estate. It would thus appear that in view of sub-s.(4) of S.5 and sub-s.(1) of S.29 of the Act the mere fact of recording of the land as Khudkasht in the settlement records on the date of vesting would not be enough for a Zamindar or Biswedar to acquire Khatedari rights over the said lands and it is further required that the Zamindar or Biswedar should be in possession/occupation of the said lands on the date of vesting of the estate under the Act. The possession/occupation envisaged by sub-s.(4) of S.5 and sub-s.(1) of S.29 of the Act is actual possession/occupation and the possession of a mortgagor through the mortgagee cannot be held to be possession or occupation as

> postulated in sub-s.(4) of S.5 and sub-s.(1) of S.29 of the Act.”

14) Same issue again cropped up in **Bir Singh and others Vs. Pyare Singh and others : AIR 2000 SC 1216**. In that case too, the Hon'ble Supreme Court relying on its earlier judgment in Budha, supra in para 22 of the report held thus:-

> “22.On a reading of the provisions of the Zamindari Abolition Act noted above it is clear that a Zamindar who is in possession/occupation of Khudkasht land on the date of vesting of the estate becomes a Khatedar tenant on abolition of the Zamindari right under Section 29 of the Zamindari Abolition Act. Under the said section a Zamindar becomes a Malik of the Khudkasht land in his occupation and as Malik he shall be entitled to all the rights conferred and all the liabilities imposed on a Khatedar tenant by or under the Act.

It follows as a corollary that if the Zamindar is not in occupation of the Khudkasht land on the date of vesting he is not entitled to claim Khatedari right in the land. The scheme behind this provision is that i a Zamaindar or Biswedar is in actual occupation of cultivable land on the date of abolition of his Zamindari right then he should continue to be in possession of such land. This is in accordance with the object of bringing about agrarian reforms by giving the land to the person in cultivating possession of the land. If the Zamindar is not in occupation of the Khudkasht land on the date of vesting then such 'land' vests in the State along with the other 'lands' subject to the provisions in the Zamindari Abolition Act. In respect of such land Zamindar is not entitled to claim any right of possession and consequentially is not entitled to maintain a suit for recovery of possession of the land from any other person."

15) What is to be therefore examined is

what would be the effect of vesting of the land in the State on expiry of 20 years from the date of acquisition of the mortgage-deed. While the petitioners claim that the land upon its redemption by virtue of Section 43(4) supra, the petitioners would be entitled to its possession and also to the khatedari rights on such land whereas, the argument of the respondent is that being in actual physical possession of the land, they are entitled to remain in possession of the land in question in view of the law authoritatively laid down by the Hon'ble Supreme Court. It is further argued by the respondents that they have not prayed for declaring themselves as khatedar tenants but they merely prayed for injunction to be

granted as against the petitioners and predecessor-in-title of the biswedars. On the question of vesting, S.D.O. in his order has held that since the land in question was not in the cultivation of the biswedar-Govind Singh, they cannot be treated as owner of khudkasht land therefore, on abolition of the biswedari, this land vested in the State Government. The State Government was therefore a necessary party. On possession, it was held that while the plaintiffs did not adduce any evidence on that question, the defendant (petitioners herein) have proved their possession in a better manner. When the matter came up for consideration before the Revenue Appellate Authority, the appellate authority held that

on abolition of biswedari, the land ceases to be a mortgaged land and since it was not a khudkasht land of the biswedars, it stood vested in the government and the khatedari rights of the biswedars were extinguished. Therefore, the respondents became khatedar of the same. However, when matter came up for consideration before the Board of Revenue, the Board also held that defendants petitioners have failed to prove that the land was khudkasht land and in the Jamabandi of Samwat 2022-2025, names of the defendants has been recorded as those who mortgaged the land with the plaintiffs. The appellate authority has thus correctly held that this being a dispute *inter-se* between two private

parties, the respondents-State would have no interest in the same and, therefore, the State Government was not a necessary party to the suit.

16) Consequence of deeming clause contained in Section 43(4) of the Act of 1955 read with S.5(2)(J) of the Act of 1959 in the facts of the case can be summarised thus that the land being not a khudkasht land of the petitioners, it stood redeemed from mortgage on expiry of 20 years and since the land in question has not been proved to be a khudkasht land, the petitioners have not acquired the khatedari rights by virtue of Section 29 of the Act of 1959. At the same time however, it should be clear that mortgage being usufuctory in

nature, the land stood redeemed on expiry of period of 20 years from 24/6/1945 i.e. on 24/6/1965 which date falls after 15/11/1959, the appointed date, in the meaning of Section 4(1) of the Act of 1959. What would therefore be implication in enforcement of the Act of 1959 w.e.f. 15/11/1959, shall have to be examined. Section 4 of the Act of 1959 inter-alia provides that as far as as may be after the commencement of this Act, the State Government may, by notification in the Official Gazette, appoint a date for the abolition and acquisition of Zamindari and Biswedari estates, or any class of such estates, in the State, or in any area thereof specified in the notification, and for their vesting in the State Government.

15/11/1959 was appointed date for the purpose of Section 5 of the Act of 1959. For consequence of abolition which in so far as relevant to the present case, provides in clause (a) of sub-section 2 of Section 5 of the Act of 1959 that from the date of vesting of any Zamindari or Biswedari estate in the State Government, notwithstanding anything contained in any contract, grant or other document or in any law for the time being in force but save as otherwise provided in this Act, such estate shall stand transferred to, and vest in, the State Government free from all encumbrances. Clause (d) of sub-Section (2) of Section 5 of the said Act provides that every right, title or interest created in or over such

estate by the Zamindar or Biswedar or his predecessor-in-interest shall, as against the State Government, cease and determine. Clause (j) of sub-Section (2) of Section 5 of the Act of 1959 provides that every mortgage with possession existing on such estate or part thereof on the date immediately preceding the date of vesting shall, to the extent of the amount secured on such estate or part, be deemed, without prejudice to the rights of the State Government under this section, to have been substituted by a simple mortgage.

17) Shri K.K. Mehrishi, learned Senior Advocate for the petitioners has argued that since by virtue of Section 5(2)(j) of the Act of 1959, usufuctory mortgage stood

substituted by the simple mortgage even prior to expiry of 20 years as envisaged in Section 43(4) of the said Act and possession of the plaintiffs in the land in question should be in law deemed to be the possession of the defendant-petitioners. Alternatively, it was also argued that since the petitioners orally got mortgage of the land redeemed and such redemption has been proved by them and, therefore, the same should be accepted because oral mortgage is also permissible in law. The third argument that has been made by Shri K.K. Mehrishi is that when the order of appointment of the Tehsildar as receiver was revoked and he withdrew from receiver, land came in possession of the petitioners and,

therefore, they would be entitled for possession over the land by virtue of the provisions of Section 29 of the Act of 1959 and further they would be entitled to be treated as Malik of the Khudkasht land in their occupation as on the date of vesting of the said land in the State Government w.e.f. 15/11/1959. But when these arguments are examined at the anvil of the law and the evidence that has been brought on record, it is found that they are substantiated by either of them. Inspite of that fact finding has been recorded by the S.D.O. that the defendants petitioners have been able to explain their possession very satisfactorily then, as to on what mode and on what date the defendants petitioners came to acquire

possession. As against this, plaintiffs came in possession as explained, from the mortgage of the land in their favour by the defendants. Plaintiff-respondents have not prayed for declaration of their khatedari rights as is evident from the copy of the plaint which is on record, suit was filed by them only for injunction. In fact, their assertion is that mutation of the land as entered in their name way back on 24/6/1945, hence they are recognised khatedar-tenant.

18) In view of the law that has been discussed above, the plaintiffs has better entitlement than the defendant-petitioners to get a decree of injunction as against

latter. With the enforcement of the Act of 1959 w.e.f. 1/11/1959 by Section 5(2)(j) usufuctory mortgage was substituted by simple mortgage and yet, the defendants petitioners would not be entitled to claim the land in question because neither they were able to prove that the land in dispute was khudkasht land nor could they prove that they were in possession of the land. In these circumstances therefore, the land in question by virtue of Section 5(2)(a) of the Act of 1959 stood vested in the State Government free from all encumbrances. I am not inclined to uphold the argument of the petitioners that usufuctory mortgage having been converted in the simple mortgage as on 1/11/1959, the possession of mortgagee in

law should be deemed to be possession of the mortgagor and, therefore, by virtue of Section 29 of the Act of 1959, the petitioners should be deemed to be in occupation of such land as on the date of vesting thereof in the State and thus entitled to be treated as khatedar-tenant. This is indeed too tall a claim to merit acceptance. This argument is based on numerous assumptions not only of law but also of facts. Besides, this question and the validity of the mutation in favour of the plaintiffs cannot be examined in the present writ proceedings which arise out of the revenue suit filed by the plaintiffs-respondents, the defendant-petitioners having not challenged the same before any

forum known to law.

19) As regards the finding recorded by the trial court that the State of Rajasthan was a necessary party to the suit, I am inclined to uphold the view taken by the Revenue Appellate Authority as maintained by the Board of Revenue that the State of Rajasthan was not a necessary party to the suit of injunction filed by the plaintiffs, which was merely directed against the defendant-petitioners and no relief was prayed for against the State Government.

In view of what has been discussed above, the writ petitions are dismissed with no order as to costs.

(MOHAMMAD RAFIQ), J.

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